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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 JON C. JAMES,

8 Plaintiff,

9 v.

10 RENEE TOWNSLEY, in her individual
11 and official capacities as clerk
12 of Washington State Court of
13 Appeals, Division III,

14 Defendant.

NO. CV-11-050-EFS

**ORDER GRANTING MOTION FOR
RECONSIDERATION AND
REVOKING IN FORMA PAUPERIS
STATUS**

15 On June 10, 2011, the Court dismissed Plaintiff Jon C. James's¹
16 Complaint, ECF No. [5](#), which alleged violations of his constitutional
17 rights when Defendant Renee Townsley, Clerk of the Washington State
18 Division III Court of Appeals, denied his request to proceed in forma
19 pauperis and then dismissed his appeal for failure to pay a filing fee,
20 for lack of subject-matter jurisdiction, ECF No. [7](#), and entered Judgment
in favor of Defendant, ECF No. [8](#). The Court concluded:

21 The Court lacks subject matter jurisdiction pursuant to the
22 *Rooker-Feldman* doctrine because Plaintiff's action is a *de*
23 *facto* appeal of the Washington State Division III Court of
24 Appeals' denial of his request to proceed in forma pauperis and
25 dismissal of his appeal, and the asserted constitutional claims
are inextricably intertwined with that state-court decision.
See *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S.
280, 284 (2005) (recognizing that *Rooker-Feldman* bars
"state-court losers complaining of injuries caused by

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¹ Plaintiff is proceeding *pro se* and in forma pauperis. ECF No. [3](#).
ORDER ~ 1

1 state-court judgments rendered before the district court
2 proceedings commenced" from asking district courts to review
and reject those judgments)); *Noel v. Hall*, 341 F.3d 1148, 1158
(9th Cir. 2003).

3 ECF No. [7](#). The Court also concluded that Defendant, as Clerk of the
4 Washington State Division III Court of Appeals, is entitled to quasi-
5 judicial immunity. *Id.*

6 On June 14, 2011, the Clerk of Court for the Ninth Circuit Court of
7 Appeals referred the matter to this Court "for the limited purpose of
8 determining whether in forma pauperis status should continue for this
9 appeal or whether the appeal is frivolous or taken in bad faith." ECF
10 No. [11](#). The Ninth Circuit advised that such determination must be made
11 within twenty-one (21) days of the referral or Plaintiff's in forma
12 pauperis "status [would] continue automatically for this appeal pursuant
13 to Fed R. App. P. 24(a)." ² *Id.*

14 Thereafter, Plaintiff filed an Amendment of Complaint Motion for
15 Reconsideration, ECF No. [13](#), and Motion to Extend IFP for Non-Frivolous
16 Appeal, ECF No. [15](#). And Defendant filed a Motion to Revoke in Forma
17 Pauperis Status, ECF No. [17](#), and related Motion for Expedited Hearing,
18 ECF No. [20](#).

21 ² It is for this reason that the Court finds good cause to waive
22 Local Rule (LR) 7.1(h)(2)(c)'s time requirements and hear these motions
23 on an expedited basis. See LR 7.1(h)(2)(c) (allowing the Court, sua
24 sponte or upon motion, to "grant an immediate hearing on any emergency
25 matter). Accordingly, Defendant's Motion for Expedited Hearing, ECF No.
26 [20](#), is granted.

1 Given that the Court lacks subject-matter jurisdiction over
2 Plaintiff's claim and Defendant is entitled to quasi-judicial immunity,
3 the Court finds that any appeal would be frivolous. As such, revocation
4 of Plaintiff's in forma pauperis status is appropriate. See 28 U.S.C.
5 § 1915(a)(3); *Hooker v. Am. Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002)
6 (recognizing that revocation of in forma pauperis status is appropriate
7 where a district court finds the appeal to be frivolous).

8 Yet the Court recognizes that its Order Dismissing Complaint and
9 Entering Judgment, ECF No. [7](#), erroneously refers to Plaintiff's state-
10 court filing fee as a "fine." See *id.* at 3, ln. 6. Thus, the Court's
11 Order Dismissing Complaint and Entering Judgment, *id.*, shall be amended
12 at page 3, line 6, to accurately reflect that Plaintiff's claim is based
13 on the Washington State Division III Court of Appeals dismissal of
14 Plaintiff's appeal for failure to pay a filing fee, not a fine.

15 Accordingly, **IT IS HEREBY ORDERED:**

16 1. Plaintiff's Amendment of Complaint Motion for Reconsideration,
17 **ECF No. [13](#)**, is **GRANTED**.

18 2. The Court's Order Dismissing Complaint and Entering Judgment,
19 **ECF No. [7](#)**, shall be amended at page 3, line 6, to accurately reflect that
20 Plaintiff's claim is based on the Washington State Division III Court of
21 Appeals' dismissal of Plaintiffs' appeal for failure to pay a filing fee,
22 not a fine. An amended order will follow.

23 3. Plaintiff's Motion to Extend IFP for Non-Frivolous Appeal, **ECF**
24 **No. [15](#)**, is **DENIED**.

4. Defendant'S Motion to Revoke in Forma Pauperis Status, **ECF No. 17**, and related Motion for Expedited Hearing, **ECF No. 20**, are **GRANTED**.

5. Plaintiff's in forma pauperis status is **REVOKED**.

6. This file shall remain **CLOSED**.

IT IS SO ORDERED. The District Court Executive is directed to enter this Order and provide a copy to Plaintiff and Spokane County Superior Court.

DATED this 28th day of June 2011.

s/ Edward F. Shea
EDWARD F. SHEA
United States District Judge

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